

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IRIS YETTER, on behalf of herself and all others :  
similarly situated, :  
: Plaintiff, : Civil Action No. 08 CV 0186 (LBS)  
: v. : ANSWER  
: BUY BUY BABY, INC., :  
: Defendant. :-----

**ANSWER**

Defendant Buy Buy Baby, Inc. (“Baby”), through its undersigned counsel, responds to the like-numbered paragraphs of the Complaint of Plaintiff Iris Yetter (“Plaintiff”), on behalf of herself and others similarly situated, as follows:

**NATURE OF THE CASE**

1. To the extent paragraph 1 addresses the content of the Fair and Accurate Credit Transactions Act (“FACTA” or the “Act”), the Act speaks for itself and no response is necessary. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 regarding what FACTA deters. Defendant Baby denies the remaining allegations in paragraph 1.

2. Defendant Baby denies the allegations contained in paragraph 2.

**PARTIES**

3. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3.

4. Defendant Baby denies the allegations in the second sentence of paragraph 4. Defendant Baby admits the remaining allegations in paragraph 4.

**JURISDICTION AND VENUE**

5. Defendant Baby neither admits nor denies the allegations contained in paragraph 5, insofar as paragraph 5 calls for a legal conclusion.

6. Defendant Baby neither admits nor denies the allegations contained in paragraph 6, insofar as paragraph 6 calls for a legal conclusion.

**CLASS ALLEGATIONS**

7. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the remaining allegations contained in paragraph 7, insofar as paragraph 7 calls for a legal conclusion.

8. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the allegations contained in paragraph 8, insofar as paragraph 8 calls for a legal conclusion. To the extent paragraph 8 requires an answer, Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8,

9. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the allegations contained in paragraph 9, insofar as paragraph 9 calls for a legal conclusion. To the extent paragraph 9 requires an answer, Defendant Baby denies the allegations in paragraph 9.

10. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the allegations contained in paragraph 10,

insofar as sub-paragraphs 10 (a) through (d) call for legal conclusions. To the extent paragraph 10 requires an answer, Defendant Baby denies the allegations in paragraph 10.

11. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the allegations contained in paragraph 11, insofar as paragraph 11 calls for a legal conclusion. To the extent paragraph 11 requires an answer, Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11.

12. Defendant Baby denies that this action should be brought on behalf of a class. Defendant Baby neither admits nor denies the allegations contained in paragraph 12, insofar as paragraph 12 calls for a legal conclusion. To the extent paragraph 12 requires an answer, Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12.

13. To the extent that paragraph 13 addresses what Plaintiff envisions, Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of those allegations. Defendant Baby denies all other allegations contained in paragraph 13.

### **FACTUAL ALLEGATIONS**

14. Defendant Baby admits the allegations contained in paragraph 14.
15. Defendant Baby admits paragraph 15.
16. FACTA speaks for itself and no response to paragraph 16 is necessary.
17. FACTA speaks for itself and no response to paragraph 17 is necessary.
18. To the extent that Plaintiffs characterize FACTA's "three-year phase-in" period as "generous," Defendant Baby denies that allegation. With respect to all other allegations contained in paragraph 18, FACTA speaks for itself and no response is necessary.

19. FACTA speaks for itself and no response to paragraph 19 is necessary.
20. Defendant Baby denies the allegations contained in paragraph 20.
21. Defendant Baby denies the allegations contained in the first sentence of paragraph 21. With respect to the other allegations contained in paragraph 21, Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of those allegations.
22. Defendant Baby denies the allegations contained in paragraph 22.
23. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of paragraph 23. Defendant Baby denies the remaining allegations in paragraph 23.
24. Defendant Baby denies the allegations contained in paragraph 24.
25. Defendant Baby denies the allegations contained in paragraph 25.
26. Defendant Baby denies the allegations contained in paragraph 26.
27. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27.
28. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28.
29. Defendant Baby lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29.
30. Defendant Baby neither admits nor denies the allegations contained in paragraph 30, insofar as paragraph 30 calls for a legal conclusion.
31. Defendant Baby denies the allegations contained in paragraph 31.

**COUNT I**

32. Defendant Baby hereby adopts and incorporates by reference its responses to paragraphs 1 to 31.

33. Defendant neither admits nor denies the allegations contained in paragraph 33 as the Complaint speaks for itself.

34. Defendant Baby denies the allegations contained in paragraph 34.

35. Defendant Baby denies the allegations contained in paragraph 35.

36. Defendant Baby denies the allegations contained in paragraph 36.

37. Defendant Baby denies the allegations contained in paragraph 37.

**AFFIRMATIVE AND OTHER DEFENSES**

**FIRST DEFENSE**

**(Failure to Allege Facts Constituting a Cause of Action)**

Plaintiff's Complaint and each purported cause of action contained therein, fails to allege facts sufficient to constitute a cause of action against Defendant Baby or a claim upon which relief can be granted in that Plaintiff and putative class members have suffered no injury and therefore lack standing to seek relief from Defendant.

**SECOND DEFENSE**

**(No Injury or Damages)**

Defendant Baby alleges that neither Plaintiff nor any putative class member has suffered injury or damages as a result of any conduct by Defendant.

**THIRD DEFENSE**

**(Alleged Statutory Damages Violate Due Process)**

The statutory damages that Plaintiff requests would be disproportionate to the harm alleged, would be excessive, and would violate Defendant Baby's rights under the due

process clauses of the United States and applicable state constitutions.

**FOURTH DEFENSE  
(Excessive Fines)**

Defendant Baby asserts that any order of restitution or disgorgement of profits would violate the excessive fines clauses of the Eighth Amendment to the United States Constitution.

**FIFTH DEFENSE  
(Legitimate Business Justification)**

Defendant asserts that it acted with legitimate business justification and/or was otherwise privileged to act as it did.

**SIXTH DEFENSE  
(Fault of Third Parties)**

Defendant asserts that the Complaint, and each purported cause of action therein, are barred because any damage or loss that Plaintiff and/or the members of the putative classes have alleged, if damages exist at all, was proximately caused or contributed to by the conduct of third parties.

**PRAYER FOR RELIEF**

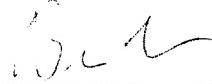
WHEREFORE, Defendant Buy Buy Baby Inc. prays:

1. Plaintiff's Complaint be dismissed with prejudice;
2. That Plaintiff and the members of the putative class take nothing by the Complaint; and

3. That the Court order such further relief in favor of Defendant as the Court deems just and proper.

Dated: February 22, 2008

Respectfully Submitted,



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Christopher P. Hall (CH-7220)  
Brian A. Herman (BH-0731)  
MORGAN, LEWIS & BOCKIUS LLP  
101 Park Avenue  
New York, New York 10178  
(212) 309-6000

Attorneys for Buy Buy Baby, Inc.